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November 17, 2015

VIA ELECTRONIC MAIL

Federal Election Commission
Office of Complaints Examination
and Legal Administration
Attn: Frankie Hampton, Paralegal
999 E Street, NW
Washington, DC 20436

Re: MUR 6888

Cruz for President (the "Committee") and Bradley Knippa, as treasurer, provide the following response to the complaint filed by American Democracy Legal Fund ("Complainant") and designated by the Federal Election Commission (the "Commission") as MUR 6888. My clients, through counsel, respectfully request that the Commission dismiss this complaint for the reasons stated herein.

First, the Complainant's "Second Supplemental Complaint" constitutes the *initial* complaint filed against the Committee, and the Commission failed to properly notify the Committee of such complaint in accordance with federal regulations. *See* 11 C.F.R. § 111.5(a) ("Upon receipt of a complaint, the General Counsel shall review the complaint for substantial compliance with the technical requirements of 11 CFR 111.4, and, if it complies with those requirements shall within five (5) days after receipt notify each respondent that the complaint has been filed, advise them of Commission compliance procedures, and enclose a copy of the complaint."). In a letter date-stamped September 25, 2015, the Commission acknowledges that "[t]he complaint was not sent to you earlier due to an administrative oversight."¹ Dismissal is therefore required.

¹ "Compliance matters may be initiated by a complaint or on the basis of information ascertained by the Commission in the normal course of carrying out its supervisory responsibilities." 11 C.F.R. § 111.3. Therefore, any previous notification letters transmitted by the Commission in connection with this matter are simply defective as notification that a complaint had been filed against my clients.

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Second, the complaint does not provide a legally or factually sufficient basis for the Commission to make a "Reason to Believe Finding" that my clients may have violated the Act. To support its allegations against the Committee, the Complainant provides nothing more than a link to an online article containing a vague and unsubstantiated reference to Senator Cruz, much less the Committee itself.² Specifically, the following excerpt is the only mention of Senator Cruz in the cited article:

In an April interview with *USA Today*, Charles Koch identified five he said "are the ones we have talked to the most and who seem to be the possible leaders." Four of them—former Governor Jeb Bush of Florida, Governor Scott Walker of Wisconsin, Senator Ted Cruz of Texas, and Senator Marco Rubio of Florida—have already executed data agreements with the RNC. Paul is the only one who hasn't.

Contrary to this vague and unsubstantiated reference, 11 C.F.R. § 111.4(d)(3)-(4) requires the complaint to conform to the following provisions:

(3) It should contain a clear and concise recitation of the facts which describe a violation of a statute or regulation over which the Commission has jurisdiction; and

(4) It should be accompanied by any documentation supporting the facts alleged if such documentation is known of, or available to, the complainant.

The "support" proffered by Complainant does not constitute a "clear and concise recitation of the facts" and certainly cannot be considered "documentation supporting the facts." Therefore, the complaint should also be dismissed because Complainant's vague allegations against the Committee do not even come close to meeting the Commission's minimal requirement for a complaint alleging a violation of the Act.

Finally, although the complaint is both procedurally and facially deficient and should be dismissed without further inquiry by the Commission, it is worth noting that the Respondent committees utilizing the services of GOP Data Trust LLC and i360, LLC appear to have entered into *bona fide* arm's length transaction within commercially reasonable contractual terms, and there appears to be no evidence or indication to demonstrate otherwise. Such transactions are legally permissible under the Act.

² Sasha Issenberg, *Why Isn't Rand Paul Making a Data Deal with the GOP?*, Bloomberg Politics (July 24, 2015), available at <http://www.bloomberg.com/politics/articles/2015-07-24/why-isn-t-rand-paul-making-a-data-deal-with-the-gop->

If you require additional information or if I can be of any assistance, then I can be reached at (512) 354-1783.

Sincerely,



Chris K. Gober
Counsel to Cruz for President

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